

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2337 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

AKBARI DAHYABHAI NATHABHAI & ANR.

Versus

STATE OF GUJARAT & ORS.

Appearance:

MR BR KYADA for Petitioners
MR VB GHARANIA for Respondent No. 1
None present for Respondent No. 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 13/12/96

ORAL JUDGEMENT

Heard learned counsel for the parties. The learned counsel for the petitioners does not dispute that the petitioners are stationed at Village Vadia. The petitioners were given the house rent allowance as per the resolution of the Government, annexure 'A' on the record of this case dated 29th January, 1980. The relevant portion of the resolution is reproduced below:

Government is pleased to decide that with effect from the 1st January, 1980, Government employees stationed at all the Taluka Head-Quarters (irrespective of Population) other than those which are covered under Government Resolution, Finance Department No. PCR-3275-28-M, dated the 22nd October, 1975, shall be granted House Rent Allowance at the following rates:-

5% of pay subject to a maximum of Rs.60/-
p.m. and minimum of Rs.15/- p.m.

The Government employees who were stationed at all the Taluka headquarters (irrespective of population) were given the benefit of the House Rent Allowance at the rate given therein with effect from 1st January, 1980. The Taluka Head-Quarter is at Village Kukavav.

The counsel for the petitioners contended that the Taluka Head-Quarter is at Village Vadia and in support of his contention he placed reliance on the certificate issued by the Mamlatdar and by the Principal/Head Master of the school. These documents are not of any help to the petitioners. It the concerned department which has to decide where the Head-Quarter of the Taluka will be, and in this case the Head-Quarter of the Taluka is at Kukavav. The petitioners who are admittedly stationed at Vadia are not entitled for the house rent allowance under the aforesaid resolution. It is true that the petitioners were given the house rent allowance under the aforesaid resolution, but that was apparently an error and rightly the audit party has raised an objection. The respondent, thereafter passed the order for recovery of the amount of H.R.A. erroneously paid to the petitioners. This order is challenged, but I do not find any illegality therein. It is a case of rectification of the error. The petitioners' entitlement for H.R.A does not come out from the resolution dated 29th January, 1980.

In the result, this Special Civil Application fails and the same is dismissed. Rule discharged.

zgs/-